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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 20, 2001

The Honorable Fred Risser  
Senate President  
State Capitol Building, Room 220 South  
Madison, WI 53702

The Honorable Scott Jensen  
Assembly Speaker  
State Capitol Building, Room 211 West  
Madison, WI 53702

Dear President Risser and Speaker Jensen:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 18, 2001 and adopted the following motions:

### PSC 167

#### Relating to extended-service area.

Moved by Representative Grothman, seconded by Representative Seratti that, pursuant to s. 227.19(4)(d) 6 and 227.26 (2) (d), Stats., the Joint Committee for Review of Administrative Rules suspends s. PSC 167.08 (2) and that portion of s. PSC 167.09 (1) beginning with the word "If" and ending with the word "increment,".

Ayes: (10) Representatives Grothman, Seratti,  
Gunderson, Turner, and Hebl; Senators Robson, Grobschmidt,  
Hansen, Schultz and Cowles.\*

Noes: (0)

Absent: (1) Senator Cowles\*

Motion Carried

10 Ayes, 0 Noes, 1 Absent.  
\*voted by polling

### WLC 0180

Moved by Representative Grothman, seconded by Representative Gunderson that, pursuant to s. 227.26 (2) (f), stats., introduces WLC 0180.

Ayes: (10) Representatives Grothman, Seratti,  
Gunderson, Turner, and Hebl; Senators Robson, Grobschmidt,  
Hansen, Schultz and Cowles.\*

Noes: (0)

Absent: (1) Senator Cowles\*

Motion Carried

10 Ayes, 0 Noes, 1 Absent.  
\*voted by polling

Clearinghouse Rule 00-091

**Relating to licensing of emergency medical technicians-paramedic and approval of emergency medical technician-paramedic operational plans. Submitted by the Department of Health and Family Services. Objected to in part and referred by the Senate Committee on Health, Utilities, Veterans and Military Affairs.**

Moved by Representative Grothman, seconded by Representative Turner that, pursuant to s. 227.19 (5) (b) 2., Stats., requests that the Department of Health and Family Services modify Clearinghouse Rule 00-91 and submit a modification to the Committee no later than August 17, 2001.

Ayes: (10) Representatives Grothman, Seratti,  
Gunderson, Turner, and Hebl; Senators Robson, Grobschmidt,  
Hansen, Schultz and Cowles.\*

Noes: (0)

Absent: (1) Senator Cowles\*

Motion Carried 10 Ayes, 0 Noes, 1 Absent.\*voted by polling

DOC 309

**Relating to resources for inmates.**

Moved by Representative Grothman, seconded by Representative Turner that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends DOC 309 at the request of Department of Corrections by 60 days.

Ayes: (10) Representatives Grothman, Seratti,  
Gunderson, Turner, and Hebl; Senators Robson, Grobschmidt,  
Hansen, Schultz and Cowles.\*

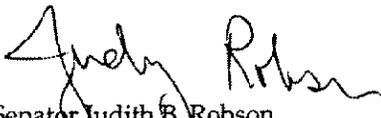
Noes: (0)

Absent: (1) Senator Cowles\*

Motion Carried 10 Ayes, 0 Noes, 1 Absent.\*voted by polling

Pursuant to s. 227.24(2)(c), stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to this emergency rule.

Sincerely,

  
Senator Judith B. Robson  
Senate Co-Chair

  
Representative Glenn Grothman  
Assembly Co-Chair

JBR:GSG:mjg

## Emergency Rule HFS 94.20



State of Wisconsin  
**Department of Health and Family Services**

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Scott McCallum, Governor  
Phyllis J. Dubé, Secretary

October 16, 2001

The Honorable Judy Robson, Co-Chairperson  
Joint Committee for Review of Administrative Rules  
Room 15 South, State Capitol  
P.O. Box 7882  
Madison, Wisconsin 53707-7882

Dear Senator Robson:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency order by 60 days as indicated below.

The emergency rules relate to the Department's operation of secure mental health facilities for the treatment of ch. 980, Stats., sexually violent patients. Departmental investigations have indicated that a portion of the ch. 980 inpatient population has routinely abused their s. HFS 94.20 telephone rights by making inappropriate calls to members of the public, by fraudulently placing numerous long distance calls that are billed to innocent third-parties or by operating fraudulent schemes. Since the Department previously had no means of monitoring patient telephone use, the extent of this activity was unknown, but given the experience of investigations triggered by citizen complaints, it was clear that these sorts of activities are not infrequent among this population. In addition, experience with telephone monitoring in other secure institutions indicated that call monitoring can and does help staff detect contraband and other security-related issues and activities. These abuses are clearly contrary to the therapeutic activities conducted at the secure mental health facilities.

Until recently, the Department had been unable to stop these abuses because the Department's facilities lacked secure telephone systems. Previous DHFS efforts to obtain secure telephone systems from the telephone system's vendor used by the Department of Corrections were not successful because the call volume at DHFS's secure mental health facilities were viewed as insufficient to support the telephone system.

In late 2000, the Department of Corrections selected a new vendor for its secure telephone system. In May, 2001, the new vendor agreed to also install the system in

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DHFS's secure mental health facilities. The installation of the system at the facilities was completed by June 20, 2001. The systems allow the Department to establish and enforce calling lists for each inpatient and monitor inpatients' calls for counter-therapeutic activity. An inpatient's calling list is a finite number of telephone numbers associated with persons the inpatient is approved to contact by telephone. Use of calling lists alone, however, is insufficient to discourage and minimize inpatient attempts to subvert the system. The Department must monitor phone calls made by ch. 980 inpatients to discourage and minimize the occurrence of inpatients calling persons on their calling list who, in turn, subvert the secure system by forwarding the inpatient's call for the prohibited purposes and activities previously described. The Department must be able to monitor the phone calls of ch. 980 inpatients both to protect the public and promote therapeutic activities at the secure mental health facilities.

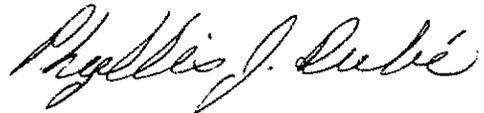
The Department issued these rules on an emergency basis to protect the public's safety by minimizing the recurring fraudulent activity associated with telephone use. These rules also ensure the public's safety and welfare by promoting the effective treatment mission of the secure mental health facilities. The recording capability of the telephone system hardware that has been installed at the Wisconsin Resource Center and the Sand Ridge Secure Treatment Center cannot be turned off, i.e., when the system is functional, all features of the system are fully operational. If the secure telephone system did not become operational, both the Wisconsin Resource Center and the Sand Ridge facility would have lost the therapeutic and safety advantages afforded by the system. Since the Sand Ridge facility began accepting its first patients during the week of June 18<sup>th</sup>, there was no alternative telephone system for patients.

The emergency rulemaking order creating rules was published and effective on **June 22, 2001**, and **will expire on November 19, 2001**, unless extended. Replacement permanent rules were sent to the Legislative Council for review on July 26, 2001 and were the subject of a public hearing held on September 12, 2000. The Department intends to send the Legislative Report to the Presiding Officers of the Senate and Assembly in late October. Consequently, the Department will not be able to file the rules until at least December for a February 1, 2002, effective date. Therefore, I request an extension of the effective period of the emergency rules by **60 days**, through January 18, 2002. If the effective period of the emergency rules is not extended, in the interim, the Department will not have the authority to monitor the telephone calls of ch. 980 inpatients.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact James Yeadon in the Division of Care and Treatment Facilities at 266-5525.

Senator Robson  
October 16, 2001  
Page 3

Sincerely,

A handwritten signature in cursive script, reading "Phyllis J. Dubé". The signature is written in black ink and is positioned above the typed name.

Phyllis J. Dubé  
Secretary

Attachments

cc Representative Grothman  
Senator Fred Risser  
Speaker Scott Jensen

ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
AMENDING RULES

FINDING OF EMERGENCY

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules included in this order is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The Department operates secure mental health facilities for the treatment of ch. 980, Stats., sexually violent patients. Departmental investigations have indicated that a portion of the ch. 980 inpatient population has routinely abused their s. HFS 94.20 telephone rights by making inappropriate calls to members of the public, by fraudulently placing numerous long distance calls that are billed to innocent third-parties or by operating fraudulent schemes. Since the Department has no means of monitoring patient telephone use, the extent of this activity is unknown, but given the experience of investigations triggered by citizen complaints, it is clear that these sorts of activities are not infrequent among this population. In addition, experience with telephone monitoring in other secure institutions indicates that call monitoring can and does help staff detect contraband and other security-related issues and activities. These abuses are clearly contrary to the therapeutic activities conducted at the secure mental health facilities.

Until recently, the Department has been unable to stop these abuses because the Department's facilities lacked secure telephone systems. Previous DHFS efforts to obtain secure telephone systems from the telephone system's vendor used by the Department of Corrections were not successful because the call volume at DHFS's secure mental health facilities were viewed as insufficient to support the telephone system.

In late 2000, the Department of Corrections selected a new vendor for its secure telephone system. In May, 2001, the new vendor agreed to also install the system in DHFS's secure mental health facilities. The installation of the system at the facilities will be completed by June 20, 2001. The systems will allow the Department to establish and enforce calling lists for each inpatient and monitor inpatients' calls for counter-therapeutic activity. An inpatient's calling list is a finite number of telephone numbers associated with persons the inpatient is approved to contact by telephone. Use of calling lists alone, however, is insufficient to discourage and minimize inpatient attempts to subvert the system. The Department must monitor phone calls made by ch. 980 inpatients to discourage and minimize the occurrence of inpatients calling persons on their calling list who, in turn, subvert the secure system by forwarding the inpatient's call for the prohibited purposes and activities previously described. The Department must be able to monitor the phone calls of ch. 980 inpatients both to protect the public and promote therapeutic activities at the secure mental health facilities.

The Department is issuing these rules on an emergency basis to protect the public's safety by minimizing the recurring fraudulent activity associated with telephone use. These rules also ensure the public's safety and welfare by promoting the effective treatment mission of the secure mental health facilities. The recording capability of the telephone system hardware that has been installed at the Wisconsin Resource Center and the Sand Ridge Secure Treatment Center cannot be turned off, i.e., when the system is functional, all features of the system are fully operational. If the secure telephone system is not operational, both the Wisconsin Resource Center and the Sand Ridge facility will lose the therapeutic and safety advantages afforded by the system. Since the Sand Ridge facility is accepting its first patients during the week of June 18<sup>th</sup>, there is no alternative telephone system for patients.

**ORDER**

Pursuant to authority vested in the Department of Health and Family Services by ss. 51.61 (9) and 227.24 (1), Stats., the Department of Health and Family Services hereby amends rules interpreting s. 51.61 (1) (p), Stats., as follows:

SECTION 1. Section HFS 94.20 (3) is amended to read:

HFS 94.20 (3) (a) Except as provided in par. (b), Each inpatient shall be permitted to make a reasonable number of private, personal calls. The number and duration of the calls may be limited for legitimate management reasons, but the facility shall provide every patient the opportunity to make at least one private, personal call per day.

(b) This subsection does not prohibit a facility under s. 980.065, Stats., from recording patients' personal telephone calls or monitoring the resulting recordings.

The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.

Wisconsin Department of Health and  
Family Services

Dated: 6-21-01

By: Phyllis J. Dubé  
Phyllis J. Dubé  
Secretary

SEAL:

SENATOR JUDITH B. ROBSON  
CO-CHAIR

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REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

To: Members of the Joint Committee for Review of Administrative Rules  
From: David Austin, committee clerk for Senator Robson  
Date: November 13, 2001  
Re: Materials for November 14 hearing

Enclosed please find the following material for tomorrow's JCRAR hearing:

1. **Emergency Rule HFS 94.20**, text and letter from the Department of Health and Family Services requesting an extension of the effective period of the rule.
2. **Emergency Rule HFS 119**, text and letter from the Department of Health and Family Services requesting an extension of the effective period of the rule.
3. **Emergency Rule NR 20.20(73)(j) and 25.06(2)(b)**, text and letter from Department of Natural Resources requesting an extension of the effective period of the rule.
4. **Clearinghouse Rule 99-071**, relating to kinship care; text of the rule, report to the Legislature and fiscal estimate.

The committee will also take up objections to **Clearinghouse Rule 00-164**, relating to wetland mitigation. This rule was objected to in part by both the Assembly Committee on Environment and the Senate Committee on Environmental Resources. The two committees objected to different portions of the rule, so JCRAR will have to consider two different objections. The following material relating to this rule is enclosed:

1. Text of the rule as originally submitted to the Legislature and showing modifications made by the department during review by standing committees.
2. Report to the Legislature.
3. Fiscal estimate.
4. Letter from Assembly Committee on Environment to Department of Natural Resources, requesting modifications.

SENATOR JUDITH B. ROBSON  
CO-CHAIR

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REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 15, 2001

Secretary Phyllis Dubé  
Department of Health and Family Services  
1 West Wilson Street  
Madison, Wisconsin

Re: Emergency Rule HFS 94.20(3)  
Emergency Rule HFS 119  
Clearinghouse Rule 99-071

Dear Secretary Dubé:

We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on November 14, 2001. At that meeting, the JCRAR received public testimony regarding two emergency rules, Emergency Rule HFS 94.20(3), relating to patients' rights, and Emergency Rule HFS 119, relating to premium rates for HIRSP.

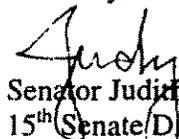
Based on the public testimony, the committee adopted a motion extending the effective period of Emergency Rule HFS 94.20(3) for 60 days. The committee approved the motion on a 10-0 vote.

The committee also adopted a motion extending the effective period of Emergency Rule HFS 119 for 60 days. The committee approved this motion on a 10-0 vote.

Finally, the committee received public testimony and took executive action on Clearinghouse Rule 99-071, relating to the Kinship Care program. This rule was previously objected to by the Senate Committee on Human Services and Aging. A motion in JCRAR to sustain the objection failed on a 5-5 vote. The department is therefore free to promulgate Clearinghouse Rule 99-071.

Pursuant to § 227.24(2)(c), *Stats.*, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

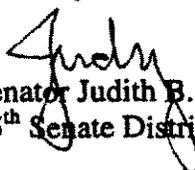
  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b) for 60 days. The committee approved the motion on a 10-0 vote.

Thank you for your attention to these matters.

Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

SENATOR JUDITH B. ROBSON  
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REPRESENTATIVE GLENN GROTHMAN  
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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 15, 2001

Senator Fred Risser  
Senate President  
Room 220 South

Representative Scott Jensen  
Speaker of the Assembly  
Room 211 West

Re: Emergency Rule HFS 94.20(3)  
Emergency Rule HFS 119  
Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b)

Dear Senator Risser and Representative Jensen:

This letter is sent pursuant to § 227.24(2)(c), *Stats.* In accordance with the requirements of that statute, we respectfully request that you notify the appropriate standing committees of each house of the legislature of the following actions by the Joint Committee for the Review of Administrative Rules (JCRAR).

The Joint Committee for the Review of Administrative Rules held a public hearing and executive session on November 14, 2001. At that meeting, the JCRAR received public testimony regarding the following emergency rules:

1. Emergency Rule HFS 94.20(3), relating to patients' rights.
2. Emergency Rule HFS 119, relating to premium rates for the Health Insurance Risk-Sharing Program.
3. Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b), relating to sport fishing for yellow perch in Green Bay and its tributaries and commercial fishing for yellow perch in Green Bay.

Based on the public testimony at the hearing, the committee adopted a motion extending the effective period of Emergency Rule HFS 94.20(3) for 60 days. The committee approved the motion on a 10-0 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule HFS 119 for 60 days. The committee approved the motion on a 10-0 vote.

5. **Assembly Record of Committee Proceedings.**
6. **Letter from Senate Committee on Environmental Resources to DNR, requesting modifications.**
7. **Senate Record of Committee Proceedings.**
8. **Letter from DNR to Senate and Assembly committees submitting modifications.**
9. **Letter from Assembly Committee on Environment to DNR, objecting in part to the rule.**
10. **Letter from Senate Committee on Environmental Resources to DNR, objecting in part to the rule.**

# Emergency Rule HFS 119



State of Wisconsin  
**Department of Health and Family Services**

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Scott McCallum, Governor  
Phyllis J. Dubé, Secretary

October 18, 2001

The Honorable Judy Robson, Co-Chairperson  
Joint Committee for Review of Administrative Rules  
Room 15 South, State Capitol  
P.O. Box 7882  
Madison, Wisconsin 53707-7882

Dear Senator Robson:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period by **60 days**, through January 27, 2002, of the Department's emergency order to amend ch. HFS 119 in order to update health insurance risk-sharing plan (HIRSP) premium rates in accordance with the authority and requirements set out in s. 149.143(3)(a), Stats.

The emergency rulemaking order was published and effective on July 1, 2001, and **will expire on November 28, 2001**, unless extended. Replacement permanent rules were sent to the Legislative Council for review on June 21, 2001, and were the subject of a public hearing held on July 31, 2001. The Department sent the Legislative Report to the Presiding Officers of the Senate and the Assembly on October 15, 2001. Consequently, the department will not be able to file the rules until at least November 26, 2001, for a January 1, 2002, effective date. If the effective period of the emergency rules is not extended, in the interim, the Department will not have the authority to update HIRSP premium rates in accordance with the authority and requirements set out in s. 149.143(3)(a), Stats.

Section 149.143(4), Stats., permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirements under s. 227.24(1) and (3), Stats., that it make a finding of emergency.

In addition to updating HIRSP premium rates, the emergency order also adjusts the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 2000. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2001.

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DHFS Request for Extension  
of Emergency Rule  
October 18, 2001  
Page 2

The fiscal changes contained in this order also reflect the conversion of HIRSP from cash accounting to accrual accounting, as recommended by the Legislative Audit Bureau and the HIRSP Board of Governors. Cash accounting recognizes the costs of claims and expenses when paid. Accrual accounting recognizes the costs of claims and expenses in the time period when first incurred. Basically, HIRSP program liabilities have been understated under the cash accounting methodology. The net effect of the HIRSP conversion to accrual accounting is to provide a more accurate reflection of the program's financial condition.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Randy McElhose, Planning Analyst in the Division of Health Care Financing at 267-7127.

Sincerely,



Phyllis J. Dubé  
Secretary

Attachment

cc Representative Grothman  
Senator Fred Risser  
Speaker Scott Jensen

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
AMENDING RULES

Section 149.143(4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. These are the emergency rules. Department staff consulted with the Health Insurance Risk-Sharing Plan (HIRSP) Board of Governors on April 25, 2001 on the rules, as required by s. 149.20, Stats.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP offers different types of medical care coverage plans for residents.

One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty-six percent of the 10,790 HIRSP policies in effect in March 2001, were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rate increases for Plan 1 contained in this rulemaking order increase an average of 3.4%. Rate increases for specific policyholders range from 0.0% to 4.9%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. This increase reflects industry-wide premium increases and takes into account the increase in costs associated with Plan 1 claims. According to state law, HIRSP premiums must fund 60% of plan costs and cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market.

A second type of medical coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Fourteen percent of the 10,790 HIRSP policies in effect in March 2001, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 3.4%. Rate increases for specific policyholders range from 0.0% to 4.9%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. These rate increases reflect industry-wide cost increases.

The Department through this rulemaking order proposes to amend ch. HFS 119 in order to update HIRSP premium rates in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 2000. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs; policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2001. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$19,982,024. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$19,617,772. On April 25, 2001, the HIRSP Board of Governors approved the calendar year 2000 reconciliation process and the HIRSP budget for the plan year July 1, 2001 through June 30, 2002.

The fiscal changes contained in this order also reflect the conversion of HIRSP from cash accounting to accrual accounting, as recommended by the Legislative Audit Bureau and the HIRSP Board of Governors. Cash accounting recognizes the costs of claims and expenses when paid. Accrual accounting recognizes the costs of claims and expenses in the time period when first incurred. Basically, HIRSP program liabilities have been understated under the cash accounting methodology. The net effect of the HIRSP conversion to accrual accounting is to provide a more accurate reflection of the program's financial condition.

**ORDER**

Pursuant to authority vested in the Department of Health and Family Services by ss. 149.143 (2) (a) 2, 3, and 4., and (3), Stats., the Department of Health and Family Services hereby amends rules interpreting s. 149.143, Stats., as follows:

SECTION 1. HFS 119.07 (6) (b) (intro.) and tables for medical plan policies with standard deductible are amended to read:

HFS 119.07 (6) (b) (intro.) *Annual premiums for major medical plan policies with standard deductible.* The schedule of annual premiums beginning ~~July 1, 2000~~ July 1, 2001, for persons not entitled to a premium reduction under s. 149.165, Stats., is as follows:

**MAJOR MEDICAL PLAN – Males**

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,6561,716	\$1,5001,536	\$1,3321,368
19-24	1,6561,716	1,5001,536	1,3321,368
25-29	1,7461,764	1,5481,584	1,3681,404
30-34	1,9321,968	1,7281,788	1,5361,584
35-39	2,2322,292	2,0162,076	1,7881,836
40-44	2,6642,736	2,4122,448	2,1482,184
45-49	3,4803,492	3,1323,132	2,7722,796
50-54	4,5604,644	4,1044,176	3,6603,732
55-59	5,8326,048	5,2565,436	4,6684,848
60+	7,2007,548	6,4806,792	5,7606,036

**MAJOR MEDICAL PLAN – Females**

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,6561,716	\$1,5001,536	\$1,3321,368
19-24	2,1842,232	1,9682,016	1,7521,788
25-29	2,3762,448	2,1482,196	1,9081,944
30-34	2,6522,688	2,3762,412	2,1122,148
35-39	2,9763,060	2,6882,760	2,3762,448
40-44	3,3843,456	3,0483,120	2,7002,760
45-49	3,9843,984	3,5883,588	3,1683,192

50-54	<u>4,5964,680</u>	<u>4,1404,212</u>	<u>3,6723,744</u>
55-59	<u>5,2205,424</u>	<u>4,7044,884</u>	<u>4,1764,344</u>
60+	<u>6,0846,360</u>	<u>5,4725,724</u>	<u>4,8605,076</u>

MEDICARE PLAN – Males

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$1,1761,212</u>	<u>\$1,0441,080</u>	<u>\$936960</u>
19-24	<u>1,1761,212</u>	<u>1,0441,080</u>	<u>936960</u>
25-29	<u>1,2121,248</u>	<u>1,0801,116</u>	<u>960996</u>
30-34	<u>1,3561,368</u>	<u>1,2121,248</u>	<u>1,0801,116</u>
35-39	<u>1,5721,608</u>	<u>1,4281,464</u>	<u>1,2481,296</u>
40-44	<u>1,8721,932</u>	<u>1,6921,716</u>	<u>1,5001,536</u>
45-49	<u>2,4362,448</u>	<u>2,1962,196</u>	<u>1,9441,968</u>
50-54	<u>3,1923,264</u>	<u>2,8802,940</u>	<u>2,5562,616</u>
55-59	<u>4,0924,248</u>	<u>3,6963,816</u>	<u>3,2763,408</u>
60+	<u>5,0645,292</u>	<u>4,5364,752</u>	<u>4,0324,236</u>

MEDICARE PLAN – Females

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$1,1761,212</u>	<u>\$1,0441,080</u>	<u>\$936960</u>
19-24	<u>1,5361,572</u>	<u>1,3681,428</u>	<u>1,2241,248</u>
25-29	<u>1,6801,716</u>	<u>1,5001,548</u>	<u>1,3321,368</u>
30-34	<u>1,8601,872</u>	<u>1,6801,692</u>	<u>1,4761,500</u>
35-39	<u>2,0882,148</u>	<u>1,8721,932</u>	<u>1,6801,716</u>
40-44	<u>2,3762,436</u>	<u>2,1482,184</u>	<u>1,8961,932</u>
45-49	<u>2,7962,796</u>	<u>2,5202,520</u>	<u>2,2202,232</u>
50-54	<u>3,2283,276</u>	<u>2,9042,952</u>	<u>2,5802,628</u>
55-59	<u>3,6603,804</u>	<u>3,3003,420</u>	<u>2,9403,048</u>
60+	<u>4,2724,464</u>	<u>3,8404,020</u>	<u>3,4083,564</u>

SECTION 2. HFS 119.07 (6) (c) 1. (intro.) and tables are amended to read:

HFS 119.07 (6) (c) *Base rates for calculating premium reductions.* 1. (intro.) The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's major medical plan are as follows beginning July 1, 2000July 1, 2001:

MAJOR MEDICAL PLAN – Males  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$1,1041,140</u>	<u>\$9961,020</u>	<u>\$888912</u>
19-24	<u>1,1041,140</u>	<u>9961,020</u>	<u>888912</u>
25-29	<u>1,1401,176</u>	<u>1,0321,056</u>	<u>912936</u>
30-34	<u>1,2841,308</u>	<u>1,1521,188</u>	<u>1,0201,056</u>
35-39	<u>1,4881,524</u>	<u>1,3441,380</u>	<u>1,1881,224</u>
40-44	<u>1,7761,824</u>	<u>1,6081,632</u>	<u>1,4281,452</u>
45-49	<u>2,3162,328</u>	<u>2,0882,088</u>	<u>1,8481,860</u>

50-54	<u>3,0363,096</u>	<u>2,7362,784</u>	<u>2,4362,484</u>
55-59	<u>3,8884,032</u>	<u>3,5043,624</u>	<u>3,1083,228</u>
60+	<u>4,8005,028</u>	<u>4,3204,524</u>	<u>3,8404,020</u>

MAJOR MEDICAL PLAN – Females  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$4,1041,140</u>	<u>\$9961,020</u>	<u>\$888912</u>
19-24	<u>1,4521,488</u>	<u>1,3081,344</u>	<u>1,1641,188</u>
25-29	<u>1,5841,632</u>	<u>1,4281,464</u>	<u>1,2721,296</u>
30-34	<u>1,7641,788</u>	<u>1,5841,608</u>	<u>1,4041,428</u>
35-39	<u>1,9802,040</u>	<u>1,7881,836</u>	<u>1,5841,632</u>
40-44	<u>2,2562,304</u>	<u>2,0282,076</u>	<u>1,8001,836</u>
45-49	<u>2,6522,652</u>	<u>2,3882,388</u>	<u>2,1122,124</u>
50-54	<u>3,0603,120</u>	<u>2,7602,808</u>	<u>2,4482,496</u>
55-59	<u>3,4803,612</u>	<u>3,1323,252</u>	<u>2,7842,892</u>
60+	<u>4,0564,236</u>	<u>3,6483,816</u>	<u>3,2403,384</u>

SECTION 3. HFS 119.07 (6) (c) 2. (intro.) and tables are amended to read:

HFS 119.07 (6) (c) *Base rates for calculating premium reductions. 2. (intro.)* The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's medicare plan are as follows beginning ~~July 1, 2000~~ July 1, 2001:

MEDICARE PLAN – Males  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$780804</u>	<u>\$696720</u>	<u>\$624636</u>
19-24	<u>780804</u>	<u>696720</u>	<u>624636</u>
25-29	<u>804828</u>	<u>720744</u>	<u>636660</u>
30-34	<u>900912</u>	<u>804828</u>	<u>720744</u>
35-39	<u>1,0441,068</u>	<u>948972</u>	<u>828864</u>
40-44	<u>1,2481,284</u>	<u>1,1281,140</u>	<u>9961,020</u>
45-49	<u>1,6201,632</u>	<u>1,4641,464</u>	<u>1,2961,308</u>
50-54	<u>2,1242,172</u>	<u>1,9201,956</u>	<u>1,7041,740</u>
55-59	<u>2,7242,832</u>	<u>2,4602,544</u>	<u>2,1842,268</u>
60+	<u>3,3723,528</u>	<u>3,0243,168</u>	<u>2,6882,820</u>

MEDICARE PLAN – Females  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$780804</u>	<u>\$696720</u>	<u>\$624636</u>
19-24	<u>1,0201,044</u>	<u>912948</u>	<u>816828</u>
25-29	<u>1,1161,140</u>	<u>9961,032</u>	<u>888912</u>
30-34	<u>1,2361,248</u>	<u>1,1161,128</u>	<u>984996</u>
35-39	<u>1,3921,428</u>	<u>1,2481,284</u>	<u>1,1161,140</u>
40-44	<u>1,5841,620</u>	<u>1,4281,452</u>	<u>1,2601,284</u>
45-49	<u>1,8601,860</u>	<u>1,6801,680</u>	<u>1,4761,488</u>

50-54	<u>2,1482,184</u>	<u>1,9321,968</u>	<u>1,7161,752</u>
55-59	<u>2,4362,532</u>	<u>2,1962,280</u>	<u>1,9562,028</u>
60+	<u>2,8442,976</u>	<u>2,5562,676</u>	<u>2,2682,376</u>

SECTION 4. HFS 119.07 (6) (d) (intro.) and tables are amended to read:

HFS 119.07 (6) (d) *Annual premiums for major medical plan policies with a \$2,500 deductible.* (intro.) In accordance with s. 149.146, Stats., an alternative plan of health insurance involving major medical expense coverage is established with a \$2,500 deductible. After the policyholder satisfies the annual \$2,500 deductible, HIRSP will pay 80% of the covered expenses for the next \$5,000 of covered expenses. Policyholders are required to pay the remaining 20% as coinsurance, up to an annual individual maximum of \$1,000. The annual maximum amount a family with two or more alternative plans will be required to pay for covered expenses is \$7,000. The schedule of annual premiums for coverage under the alternative plan with a \$2,500 deductible is as follows beginning ~~July 1, 2000~~ July 1, 2001:

**ALTERNATIVE MAJOR MEDICAL PLAN Males**

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$1,1881,236</u>	<u>\$1,0801,104</u>	<u>\$960984</u>
19-24	<u>1,1881,236</u>	<u>1,0801,104</u>	<u>960984</u>
25-29	<u>1,2361,272</u>	<u>1,1161,140</u>	<u>9841,008</u>
30-34	<u>1,3921,416</u>	<u>1,2481,284</u>	<u>1,1041,140</u>
35-39	<u>1,6081,656</u>	<u>1,4521,500</u>	<u>1,2841,320</u>
40-44	<u>1,9201,968</u>	<u>1,7401,764</u>	<u>1,5481,572</u>
45-49	<u>2,5082,520</u>	<u>2,2562,256</u>	<u>1,9922,016</u>
50-54	<u>3,2883,348</u>	<u>2,9523,012</u>	<u>2,6402,688</u>
55-59	<u>4,2004,356</u>	<u>3,7803,912</u>	<u>3,3603,492</u>
60+	<u>5,1845,436</u>	<u>4,6684,896</u>	<u>4,1524,344</u>

**ALTERNATIVE MAJOR MEDICAL PLAN Females**

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$1,1881,236</u>	<u>\$1,0801,104</u>	<u>\$960984</u>
19-24	<u>1,5721,608</u>	<u>1,4161,452</u>	<u>1,2601,284</u>
25-29	<u>1,7161,764</u>	<u>1,5481,584</u>	<u>1,3681,404</u>
30-34	<u>1,9081,932</u>	<u>1,7161,740</u>	<u>1,5241,548</u>
35-39	<u>2,1482,208</u>	<u>1,9321,992</u>	<u>1,7161,764</u>
40-44	<u>2,4362,484</u>	<u>2,1962,244</u>	<u>1,9441,992</u>
45-49	<u>2,8682,868</u>	<u>2,5802,580</u>	<u>2,2802,304</u>
50-54	<u>3,3123,372</u>	<u>2,9763,036</u>	<u>2,6402,700</u>
55-59	<u>3,7563,900</u>	<u>3,3843,516</u>	<u>3,0123,132</u>
60+	<u>4,3804,584</u>	<u>3,9364,116</u>	<u>3,5043,660</u>

SECTION 5. HFS 119.15 (2) and (3) are amended to read:

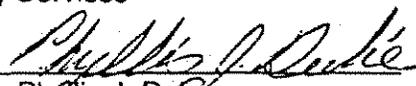
(2) **INSURER ASSESSMENTS.** The insurer assessments for the time period ~~July 1, 2000 through June 30, 2001~~ total \$9,898,358. July 1, 2001 through June 30, 2002 total \$19,617,772.

(3) PROVIDER PAYMENT RATES. The total adjustment to the provider payment rates for the time period ~~July 1, 2000 through June 30, 2001 is \$10,119,482.~~ July 1, 2001 through June 30, 2002 is \$19,982,024.

The rules contained in this order shall take effect as emergency rules on July 1, 2001.

Wisconsin Department of Health and  
Family Services

Dated: June 13, 2001

By:   
Phyllis J. Dube  
Secretary

SEAL:

SENATOR JUDITH B. ROBSON  
CO-CHAIR

PO BOX 7882  
MADISON, WI 53707-7882  
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

PO BOX 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

To: Members of the Joint Committee for Review of Administrative Rules  
From: David Austin, committee clerk for Senator Robson  
Date: November 13, 2001  
Re: Materials for November 14 hearing

Enclosed please find the following material for tomorrow's JCRAR hearing:

1. **Emergency Rule HFS 94.20**, text and letter from the Department of Health and Family Services requesting an extension of the effective period of the rule.
2. **Emergency Rule HFS 119**, text and letter from the Department of Health and Family Services requesting an extension of the effective period of the rule.
3. **Emergency Rule NR 20.20(73)(j) and 25.06(2)(b)**, text and letter from Department of Natural Resources requesting an extension of the effective period of the rule.
4. **Clearinghouse Rule 99-071**, relating to kinship care; text of the rule, report to the Legislature and fiscal estimate.

The committee will also take up objections to **Clearinghouse Rule 00-164**, relating to wetland mitigation. This rule was objected to in part by both the Assembly Committee on Environment and the Senate Committee on Environmental Resources. The two committees objected to different portions of the rule, so JCRAR will have to consider two different objections. The following material relating to this rule is enclosed:

1. Text of the rule as originally submitted to the Legislature and showing modifications made by the department during review by standing committees.
2. Report to the Legislature.
3. Fiscal estimate.
4. Letter from Assembly Committee on Environment to Department of Natural Resources, requesting modifications.

5. **Assembly Record of Committee Proceedings.**
6. **Letter from Senate Committee on Environmental Resources to DNR, requesting modifications.**
7. **Senate Record of Committee Proceedings.**
8. **Letter from DNR to Senate and Assembly committees submitting modifications.**
9. **Letter from Assembly Committee on Environment to DNR, objecting in part to the rule.**
10. **Letter from Senate Committee on Environmental Resources to DNR, objecting in part to the rule.**

SENATOR JUDITH B. ROBSON  
CO-CHAIR  
P.O. BOX 7882  
MADISON, WI 53707-7882  
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REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR  
P.O. BOX 8952  
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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 15, 2001

Senator Fred Risser  
Senate President  
Room 220 South

Representative Scott Jensen  
Speaker of the Assembly  
Room 211 West

Re: Emergency Rule HFS 94.20(3)  
Emergency Rule HFS 119  
Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b)

Dear Senator Risser and Representative Jensen:

This letter is sent pursuant to § 227.24(2)(c), *Stats.* In accordance with the requirements of that statute, we respectfully request that you notify the appropriate standing committees of each house of the legislature of the following actions by the Joint Committee for the Review of Administrative Rules (JCRAR).

The Joint Committee for the Review of Administrative Rules held a public hearing and executive session on November 14, 2001. At that meeting, the JCRAR received public testimony regarding the following emergency rules:

1. Emergency Rule HFS 94.20(3), relating to patients' rights.
2. Emergency Rule HFS 119, relating to premium rates for the Health Insurance Risk-Sharing Program.
3. Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b), relating to sport fishing for yellow perch in Green Bay and its tributaries and commercial fishing for yellow perch in Green Bay.

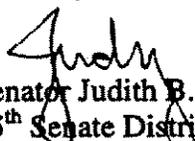
Based on the public testimony at the hearing, the committee adopted a motion extending the effective period of Emergency Rule HFS 94.20(3) for 60 days. The committee approved the motion on a 10-0 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule HFS 119 for 60 days. The committee approved the motion on a 10-0 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b) for 60 days. The committee approved the motion on a 10-0 vote.

Thank you for your attention to these matters.

Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

SENATOR JUDITH B. ROBSON  
CO-CHAIR  
P.O. Box 7882  
MADISON, WI 53707-7882  
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REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR  
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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 15, 2001

Secretary Phyllis Dubé  
Department of Health and Family Services  
1 West Wilson Street  
Madison, Wisconsin

Re: Emergency Rule HFS 94.20(3)  
Emergency Rule HFS 119  
Clearinghouse Rule 99-071

Dear Secretary Dubé:

We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on November 14, 2001. At that meeting, the JCRAR received public testimony regarding two emergency rules, Emergency Rule HFS 94.20(3), relating to patients' rights, and Emergency Rule HFS 119, relating to premium rates for HIRSP.

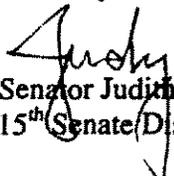
Based on the public testimony, the committee adopted a motion extending the effective period of Emergency Rule HFS 94.20(3) for 60 days. The committee approved the motion on a 10-0 vote.

The committee also adopted a motion extending the effective period of Emergency Rule HFS 119 for 60 days. The committee approved this motion on a 10-0 vote.

Finally, the committee received public testimony and took executive action on Clearinghouse Rule 99-071, relating to the Kinship Care program. This rule was previously objected to by the Senate Committee on Human Services and Aging. A motion in JCRAR to sustain the objection failed on a 5-5 vote. The department is therefore free to promulgate Clearinghouse Rule 99-071.

Pursuant to § 227.24(2)(c), *Stats.*, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

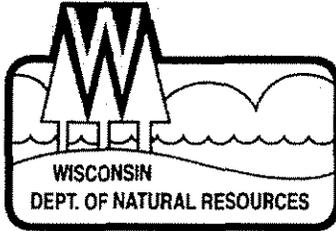
Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

Emergency Rule NR 20.20(73)(j) and  
25.06(2)(b)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor  
Darrell Bazzell, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY 608-267-6897

October 15, 2001

Honorable Judy Robson, Co-Chair  
Joint Committee for Review of  
Administrative Rules  
15 South  
State Capitol

Honorable Glenn Grothman, Co-Chair  
Joint Committee for Review of  
Administrative Rules  
15 North  
State Capitol

Re: Extension of Emergency Rule No. FH-28-01(E)

Dear Ms. *Judy* Robson and Mr. *Glenn* Grothman:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Order No. FH-28-01(E) for 60 days. This emergency order pertaining to sport fishing and commercial fishing for yellow perch in Green Bay took effect on July 1, 2001 is due to expire on November 28, 2001. Clearinghouse Rule No. 01-037 to make this emergency rule permanent is scheduled for adoption by the Natural Resources Board at its October meeting.

The extension of this emergency rule is needed so that regulations remain the same during the entire fishing season. A copy of the emergency order is attached. If you have any questions, please contact Peter Flaherty, Bureau of Legal Services at 266-8254.

Sincerely,

*Darrell*  
Darrell Bazzell  
Secretary

Attach.

Cc: Presiding Officers  
Standing Committees  
Carol Turner - LS/5  
Peter Flaherty - LS/5  
Bill Horns - FH/3

ORDER OF  
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
AMENDING RULES

The Wisconsin Natural Resources Board adopts an order to amend NR 20.20(73)(j)1. and 2. relating to sport fishing for yellow perch in Green Bay and its tributaries and NR 25.06(2)(b)1. relating to commercial fishing for yellow perch in Green Bay.

FH-28-01(E)

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.014(1), 29.041, 29.519(1), 227.11(2)(a) and 227.24, Stats.  
Statutes interpreted: ss. 29.014(1), 29.041 and 29.519(1), Stats.

SECTION 1 of the order reduces the sport fishing daily bag limit for yellow perch caught in Green Bay and its tributaries to 10. Currently the daily bag limit is 25 in total for panfish, including yellow perch.

SECTION 2 of the order reduces the total annual commercial harvest of yellow perch from zone 1 (Green Bay) from 200,000 pounds to 20,000 pounds.

SECTION 1. NR 20.20(73)(j)1. and 2. are amended to read:

NR 20.20(73)

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OTHER SIZE RESTRICTIONS (INCHES)
(j) Panfish	1. Green Bay	a. Hook and line	Continuous, but the open season for yellow perch is May 20 to March 15	25 in total <u>but only 10 may be yellow perch</u>	None
	2. Major Green Bay tributaries	a. Hook and line	Continuous, but the open season for yellow perch is May 20 to March 15	25 in total <u>but only 10 may be yellow perch</u>	None

SECTION 2. NR 25.06(2)(b)1. is amended to read:

NR 25.06(2)(b)1. The total allowable commercial harvest in zone 1 for any license year may not exceed ~~200,000~~ 20,000 pounds.

FINDING OF EMERGENCY

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

Yellow perch contribute significantly to the welfare of Wisconsin citizens by supporting popular and economically valuable sport and commercial fisheries. The yellow perch population in Green Bay is rapidly declining. This decline reflects a number of years of very poor reproduction. The only recent year with reasonably good natural reproduction was 1998. The fish spawned that year contributed to the sport harvest in 2001 and will become vulnerable to commercial gear this summer. Sport and commercial harvests of adult yellow perch must be limited immediately in order to protect those fish and maximize the probability of good reproduction in the near future.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on June 27, 2001.

The rules contained herein shall take effect on July 1, 2001, as emergency rules, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin June 28, 2001.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By Darrell Bazzell  
Darrell Bazzell, Secretary

(SEAL)

SENATOR JUDITH B. ROBSON  
CO-CHAIR  
P.O. BOX 7882  
MADISON, WI 53707-7882  
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR  
P.O. BOX 8952  
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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 15, 2001

Secretary Darrell Bazzell  
Department of Natural Resources  
101 South Webster Street  
Madison, Wisconsin

Re: Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b)  
Clearinghouse Rule 00-164

Dear Secretary Bazzell:

We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on November 14, 2001.

At that meeting, the JCRAR received public testimony regarding Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b), relating to sport fishing for yellow perch in Green Bay and its tributaries and commercial fishing for yellow perch in Green Bay.

Based on that testimony, the committee adopted a motion extending the effective period of Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b) for 60 days. The committee approved the motion on a 10 to 0 vote.

The committee also heard public testimony and took executive action on Clearinghouse Rule 00-164, relating to wetland compensatory mitigation. The committee adopted two motions relating to this proposed rule.

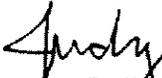
The committee voted to object to section NR 350.06(3) of this rule on the grounds that the rule provision does not comply with legislative intent and is arbitrary and capricious. The committee's vote on this motion was 7 to 3. Pursuant to the committee's statutory mandate, the committee will be introducing legislation on this topic in the near future.

Regarding this same rule, the committee also voted to not concur in the objection to section NR 350.04 of this rule raised by the Assembly Committee on Environment.

The department is now free to promulgate Clearinghouse Rule 00-164 with the limited exception of section NR 350.06(3).

Pursuant to § 227.24(2)(c), *Stats.*, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

SENATOR JUDITH B. ROBSON  
CO-CHAIR  
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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 15, 2001

Senator Fred Risser  
Senate President  
Room 220 South

Representative Scott Jensen  
Speaker of the Assembly  
Room 211 West

Re: Emergency Rule HFS 94.20(3)  
Emergency Rule HFS 119  
Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b)

Dear Senator Risser and Representative Jensen:

This letter is sent pursuant to § 227.24(2)(c), *Stats*. In accordance with the requirements of that statute, we respectfully request that you notify the appropriate standing committees of each house of the legislature of the following actions by the Joint Committee for the Review of Administrative Rules (JCRAR).

The Joint Committee for the Review of Administrative Rules held a public hearing and executive session on November 14, 2001. At that meeting, the JCRAR received public testimony regarding the following emergency rules:

1. Emergency Rule HFS 94.20(3), relating to patients' rights.
2. Emergency Rule HFS 119, relating to premium rates for the Health Insurance Risk-Sharing Program.
3. Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b), relating to sport fishing for yellow perch in Green Bay and its tributaries and commercial fishing for yellow perch in Green Bay.

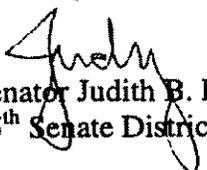
Based on the public testimony at the hearing, the committee adopted a motion extending the effective period of Emergency Rule HFS 94.20(3) for 60 days. The committee approved the motion on a 10-0 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule HFS 119 for 60 days. The committee approved the motion on a 10-0 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule NR 20.20(73)(j) and NR 25.06(2)(b) for 60 days. The committee approved the motion on a 10-0 vote.

Thank you for your attention to these matters.

Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

To: Members of the Joint Committee for Review of Administrative Rules  
From: David Austin, committee clerk for Senator Robson  
Date: November 13, 2001  
Re: Materials for November 14 hearing

Enclosed please find the following material for tomorrow's JCRAR hearing:

1. **Emergency Rule HFS 94.20**, text and letter from the Department of Health and Family Services requesting an extension of the effective period of the rule.
2. **Emergency Rule HFS 119**, text and letter from the Department of Health and Family Services requesting an extension of the effective period of the rule.
3. **Emergency Rule NR 20.20(73)(j) and 25.06(2)(b)**, text and letter from Department of Natural Resources requesting an extension of the effective period of the rule.
4. **Clearinghouse Rule 99-071**, relating to kinship care; text of the rule, report to the Legislature and fiscal estimate.

The committee will also take up objections to **Clearinghouse Rule 00-164**, relating to wetland mitigation. This rule was objected to in part by both the Assembly Committee on Environment and the Senate Committee on Environmental Resources. The two committees objected to different portions of the rule, so JCRAR will have to consider two different objections. The following material relating to this rule is enclosed:

1. Text of the rule as originally submitted to the Legislature and showing modifications made by the department during review by standing committees.
2. Report to the Legislature.
3. Fiscal estimate.
4. Letter from Assembly Committee on Environment to Department of Natural Resources, requesting modifications.

5. Assembly Record of Committee Proceedings.
6. Letter from Senate Committee on Environmental Resources to DNR, requesting modifications.
7. Senate Record of Committee Proceedings.
8. Letter from DNR to Senate and Assembly committees submitting modifications.
9. Letter from Assembly Committee on Environment to DNR, objecting in part to the rule.
10. Letter from Senate Committee on Environmental Resources to DNR, objecting in part to the rule.

**Joint Committee for Review of Administrative Rules**  
**November 14, 2001**

Comments of William H. Horns, Department of Natural Resources

My name is William Horns. I am the Great Lakes Fisheries Specialist for the Department of Natural Resources. Also here today is my supervisor, Stephen Hewett, who is Section Chief for the Policy and Operations Section of the Bureau of Fisheries Management and Habitat Protection.

I am speaking in favor of a 60 day extension of Emergency Rule NR20.20(73)(j)1. and 2. and NR 25.06(2)(b)1. This rule reduces the daily sport fishing bag limit for Green Bay from 25 to 10 and reduces the total annual commercial harvest from 200,000 pounds to 20,000 pounds.

I have worked closely with this issue as Team Leader for our Lake Michigan Fisheries Team, and as the Department's liaison with the Lake Michigan Commercial Fishing Board, the Great Lakes Study Committee of the Conservation Congress, and the Lake Michigan Fisheries Forum.

This emergency rule took effect on July 1 and was designed to protect the rapidly declining yellow perch population of Green Bay. In October the Natural Resources Board adopted an identical permanent rule, NRB Order FH-12-01, which will take effect early in 2002, following legislative review. This extension of the emergency order is needed to sustain present fishing rules until the permanent order takes effect. A second extension may also be needed. At the request of Representative John Gard the permanent order includes a sunset clause under which Green Bay fishing regulations will return to those in effect prior to this round of rule-making on June 30, 2004.

The fishing regulations established by these rules are needed to protect the rapidly declining yellow perch population of Green Bay and to maximize the likelihood of an early recovery. By our estimates, the adult yellow perch population has declined over 90% in the past decade. Sport fishing catches have declined similarly. The figure summarizes our annual estimates of yellow perch abundance in Green Bay. That figure is based on annual trawl surveys at 78 separate stations distributed throughout Green Bay, annual creel surveys, annual commercial fishing reports, and vital statistics (age, sex, size) taken from individual fish harvested by sport and commercial fishers.

The decline in yellow perch reflects a decade of poor natural reproduction. The only moderately strong year for natural reproduction was 1998, and yellow perch spawned in that single year now make up over 90% of the sport and commercial harvest. Green Bay is a rapidly changing ecosystem, and we do not know the cause of the poor reproduction. A number of possible factors have been mentioned, including weather, declining water levels, zebra mussels, cormorants, white perch, and predators stocked by the Department. We simply cannot at this time say which, if any, of these is the cause of the decline.

We believe that the only prudent policy is to protect the remaining yellow perch in order to give them the best chance of reproducing and restoring a healthy yellow perch population to Green Bay. With the new harvest limits in effect, the population may continue to decline slightly, but should sustain itself at approximately present levels for several more years. Without these protective rules, the yellow perch population could continue to decline rapidly. The rules we have adopted provide significant protection to the yellow perch population while also allowing some continuing sport and commercial fishing. In this way we believe we have struck the appropriate balance between the needs of individuals and businesses affiliated with sport and commercial fishing and the needs of the yellow perch population.

